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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/816,211  | 03/26/2001  | Tetsuro Iwamoto      | 108991              | 5781             |
| 25944   | 7590        | 11/02/2006           | EXAMINER            |                  |
| OLIFF & BERRIDGE, PLC<br>P.O. BOX 19928<br>ALEXANDRIA, VA 22320 |             |                      | ALPERT, JAMES M     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3693                |                  |

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/816,211 | <b>Applicant(s)</b><br>IWAMOTO, TETSURO |  |
|                              | <b>Examiner</b><br>James Alpert      | <b>Art Unit</b><br>3693                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The following communication is in response to Applicant's amendment filed on 23 June 2006.

#### ***Status of Claims***

Each of Claims 1-20 are currently amended and currently pending.

#### ***Response to Arguments***

Applicant's arguments and amendments filed 23 June 2006 have been fully considered but they are not persuasive, as discussed below. Therefore, Claims 1-20 remain rejected, and Applicant's request for allowance is respectfully declined.

**With regard to the claims that were rejected under 35 U.S.C §102**, Applicant initially discusses the objectives of the invention, and cites the specification at page 7 as standing for the proposition that the purpose of the invention is to express the effects of financial measures (or proposals) in improving the credit ratings of a company, and specifically perhaps, a bond rating. While this information has some bearing on the prosecution of this application, more important is the language and scope of the claims, which establishes the "metes and bounds" of the coverage of any issued patent. Thus although the application may seek to express the effects of financial measures as to bond ratings, this concept is not yet reflected in the claims. Thus with regards to Claims 9,1,16, it is clear from a cursory inspection of Fletcher, U.S. Patent #6112190, at Figure 13, that interim financial data and projected financial data are incorporated into a credit rating to be calculated upon future events. Items 146a-146q under the "Projected Column" exhibit estimated financial data that is necessarily a result of a "financial state

changing measure.” To clarify, is not projected data a result of some changing condition, or otherwise the data would remain static. Further, it appears that the information under Figure 13 (as well as the other figures, according to Fletcher) is subject to user inputs such that the data could be manipulated to reflect multiple occurrences of “financial state changing measures.” See Fletcher, Col. 12, lines 42-45. That is to say, a user of the Fletcher system can enter information reflecting one or more measures designed to impact credit ratings.

The examiner understands Applicant's next argument to be that Figure 21 does not demonstrate a calculation resulting from a “predetermined rating point value equation.” Applicant first asserts that the “credit assessment” of Figure 21 demonstrates only a “relationship” between the 4 shown factors. The Examiner disagrees and would point out that Figure 21 demonstrates a directional arrow showing that the credit assessment is comprised of some sort of weighting or application of the four factors. Figure 20 directly supports this interpretation, revealing that credit assessment is directly attributable to the factors. It is straightforward to see that the overall rating point values are a result of some non-random manipulation of the factors to achieve the final result, which is exactly what an equation is.

As to the argument that rating point value must be a result of the estimated financial data, it is clear that the overall credit rating and factors are part of a greater system of collecting data about the borrower-company, and would be based on the estimated financial data in making these intermediary determinations. As to the notion that the equation must utilize “predetermined financial data”, this phrase simply implies

that the equation will use the same factors consistently (as opposed to changing, random determinations), as does the credit assessment depicted in Figures 18-21.

Applicant next more explicitly asserts that the projection of financial data is carried out without a financial state changing measure. This interpretation is not supported by the reference. As mentioned previously, the fact that data is "projected", as opposed to "current," inherently infers that some change has taken place to affect the data. Further, there is no requirement that the lending officer utilizing the Fletcher system cannot assume a financial state changing measure even though the borrower himself has not contemplated it.

**As to the claims that were rejected under 35 U.S.C §103**, Applicant argues that the Examiner has not indicated a stochastically estimated rating, for example, an AAA or BBB bond rating. However, this observation is not particularly relevant as this teaching is not required from the language of the claims. The word "bond" does not appear in the claims, nor does the requirement that the rating be "lettered," for lack of a better word. Fletcher clearly discloses a rating point value, as discussed above, with the only issue being as to whether it is determined stochastically. The Examiner has conceded that Fletcher does not disclose this feature, and cites Johnson, U.S. Patent #5615408, for the proposition that probabilities are used in calculating a credit rating, including bankruptcy probability. The Examiner maintains that his reading of Johnson, and the motivation provided for the combination provide a *prima facie* case of obviousness that has not been overcome.

The Applicant further objects to the Examiner's use of Official Notice in rejecting certain claims. The first limitation at issue (under Claims 14,6,19) is the idea that calculating a bankruptcy probability is done using a pre-determined formula. The second limitation (under Claims 15,7,20) is that an interest rate, or numeral data concerning costs, will be effected by a probability of bankruptcy. The Examiner's interpretation of the first limitation is as follows: using a pre-determined formula to conduct a bankruptcy probability simply means that the probability will not be decided willy-nilly. That is, the value will be determined by crunching some values reflecting previously decided factors, and spitting out a number. The claims do not require that the formula used be any particular formula, but just that the probability be determined by some decided-on formula. Is the Applicant going to really argue that in the financial arts, determinations such as this are made by some credit officer looking at financial data, and simply saying, "Hmmm, it seems like this company is going to go bankrupt!" No, surely it well known that a determination such as a likelihood of bankruptcy is done by looking at particular data and crunching some numbers.

As to the second limitation, the Examiner is at a loss to see how Applicant can seriously question that it is old and well known that "costs to borrow" are effected by the likelihood of bankruptcy. Certainly, this is easily proven by walking into the closest bank, informing the loan officer of your impending Chapter 11 filing, and waiting to see the interest rate on your new loan. In any event, MPEP § 2144.03(C) states, in respect to an Examiner's use of Official Notice:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). (underlining added by the Examiner for emphasis)

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

The rationale behind the cited passage from §2144 is that that both Applicants' and Examiners' time should not be wasted addressing minor issues that are clearly understood in the art. As mentioned above, the noticed facts above are within the knowledge base of one of ordinary skill in the art, and Applicant has not stated why either of the noticed facts are not considered to be common knowledge or well-known. Applicant's cursory request for documentary support, absent a discussion of the facts themselves, is not an adequate traversal of the use of Official Notice, and as required above, the Examiner must consider the noticed facts as admitted prior art.

The rejections are maintained, as detailed below:

***Claim Rejections - 35 USC § 102***

The text of 35 U.S.C. §102(e), which is not included in this action, can be found in a prior Office action. Claims 1,3,5,9,11,13 are rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher et al, U.S. Patent #6112190.

**With regard to Claims 9,1,16,** Fletcher teaches a method, system, and storage medium comprising:

calculating an estimated rating point value corresponding to a financial state changing measure applicable to a particular company, by using estimated financial data after said financial state changing measure applicable to said particular company is performed and a predetermined rating point value formula; (See Figure 19, item 343 showing a credit point value, "3.0"; see Figure 13, items 146s, 146t, showing interim and projected financial states; see Figure 21, "credit assessment" as a function (e.g. formula) of "character", "information quality", "repayment sources", and "financial condition")

calculating numeral data that corresponds to said estimated rating point value and is associated with credit risk of said particular company by using said estimated financial data after said financial state changing measure is performed; (See Figure 18, item 324d, showing rates based on credit rating derived from the estimated financial data)

outputting information concerning said estimated rating point value calculated and the calculated numeral data. (See Figure 18, representative of a GUI, and see Figure 26, "Credit Approval Summary", and "Key Evaluation Data")

**With regard to Claims 11,3,** Fletcher teaches a method and system comprising:

calculating a rating point value corresponding to a present financial state of said particular company by using financial data that represents said present financial state of said particular company and said predetermined rating point value formula, and (See Figure 19, item 343 showing a credit point value, "3.0"; see Figure 13, items 146r, showing current annual financial data; see Figure 21, "credit assessment" as a function (e.g. formula) of "character", "information quality", "repayment sources", and "financial condition")

wherein said outputting step includes a step of outputting said rating point value corresponding to said present financial state of said particular company or an improved point value of said estimated rating point value from said rating point value corresponding to said present financial state. (See Figure 18, representative of a GUI, and see Figure 26, "Credit Approval Summary", and "Key Evaluation Data")



**With regard to Claims 13,5** Fletcher teaches a method and system comprising:

calculating numeral data associated with present credit risk of said particular company by using financial data that represents a present financial state of said particular company, (See Figure 13, items 146r, showing current annual financial data, and see Figure 18, item 324d, showing rates based on credit risks associated with the current financial data)

and wherein said outputting step includes a step of outputting said numeral data associated with said present credit risk of said particular company or an improved degree of said numeral data that corresponds to said estimated rating point value and is associated with said credit risk from said numeral data associated with said present credit risk. (See Figure 18, representative of a GUI, and see Figure 26, "Credit Approval Summary", and "Key Evaluation Data")

**Claim 8 recites:**

The system set forth in claim 1, wherein said means for calculating said estimated rating point value calculates estimated rating point values respectively corresponding to a plurality of financial state changing measures applicable to said particular company by using a plurality of estimated financial data after said plurality of financial state changing measures applicable to said particular company are performed and said predetermined rating point value formula, and multiple financial data wherein said means for calculating said numeral data associated with said estimated credit risk calculates numeral data that is associated with said estimated credit risk of said particular company and corresponds to a selected estimated rating point value of said plurality of said estimated rating point values calculated by said means for calculating said estimated rating point value.

The Examiner interprets this claim to represent the steps wherein different sets of financial data are used to calculate different sets of credit scores and credit ratings, according to the formulas used for creating such indicators. The Examiner observes that the system used in Fletcher is capable of implementing Applicant's system. Specifically, the estimated financial data that is referred to in Figure 13 as "projected", can be changed each time the system is invoked to perform an assessment. Thus a user can

used various sets of projected data to observe the effect of the data on the resultant credit scores, ratings, and financial services values.

***Claim Rejections - 35 USC § 103***

The text of 35 U.S.C. §103, which is not included in this action, can be found in a prior Office action. Claim 2,4,6-8,10,12,14-15,17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher in view of Johnson et al, U.S. Patent #5615408.

**Claims 10,2,17**, recite a method, system, & storage medium comprising:

stochastically estimating a rating from said estimated rating point value, and wherein said information concerning said estimated rating point value calculated is the stochastically estimated rating.

It appears that Fletcher employs a "likelihood" analysis in arriving at a credit point value, in Figures #19-20, which shows subjective assessments in addition to detailed numerical ratings of factors effecting creditworthiness. Still, Fletcher does not seem to expressly use a stochastic or probabilistic analysis in arriving at an overall credit rating of a user. However, Johnson, in discussing credit scores, teaches this exact limitation at (Col. 8, lines 53-59). Further, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to combine the teachings of Fletcher, relating to calculating credit point values, with the teachings of Johnson, relating to stochastic determinations of variations in such values. The motivation for such a combination is within the general knowledge of one ordinarily skilled in the art, and is simply to provide greater and more precise information about a potential borrower.

**With regard to Claims 12,4,18**, Fletcher teaches a method, system and storage medium comprising:

computing an estimated rating corresponding to said estimated rating point value and said outputting step includes a step of outputting said estimated rating corresponding to said estimated rating point value (See Figure 19, item 342, showing a "good" credit quality, based on the numerical point value)

Fletcher does not expressly teach that the "expression" is a relative value based on probabilities. In terms of Applicant's claims, Fletcher does not expressly teach:

information concerning probability of said estimated rating, and outputting said information concerning said probability of said estimated rating.

However, as mentioned above, Johnson teaches this aspect of making credit determinations (see Col. 8, lines 53-59). As such, it would have been obvious to one of ordinary skill in the art to combine the teachings of Fletcher, relating to computing a credit rating, with the teachings of Johnson, relating to calculating probabilities of variations in the rating. The motivation for such a combination is within the general knowledge of one ordinarily skilled in the art, and is simply to provide greater and more precise information about a potential borrower.

**With regard to Claims 14,6,19**, Fletcher does not expressly teach a method and system wherein:

said numeral data associated with said estimated credit risk includes a step of calculating bankruptcy probability of said particular company

However, Johnson also teaches probability of bankruptcy as a factor in making credit determinations at (Col. 8, lines 53-59). As such it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to combine the

teachings of Fletcher, relating to calculating numeral data associated with estimated credit risk, to include a bankruptcy probability, as taught by Johnson. The motivation for such a combination is within the general knowledge of one ordinarily skilled in the art, and is simply to provide greater and more precise information about a potential borrower.

Fletcher teaches one other limitation recited by the claim:

using estimated financial data after said financial state changing measure is performed (See Figure 13, items 146s, 146t, showing interim and projected financial states).

The remaining limitation refers to using a predetermined bankruptcy probability formula, which is not taught by Fletcher. However, as discussed above in the response to arguments, Official Notice has been taken that using a predetermined formula in calculating bankruptcy probabilities is old, well known, and admitted as prior art. It would have been obvious to one of ordinary skill in the art, at the time applicant's invention was made, to combine the teachings of Fletcher related to calculating a numeral data associated with a credit risk, to include a predetermined formula for calculating a bankruptcy probability. The motivation for such a combination is within the general knowledge of one ordinarily skilled in the art, and is simply to provide greater and more precise information about a potential borrower.

**With regard to Claims 15,7,20,** Fletcher teaches the method, system, and media comprising:

calculates numeral data concerning costs of one or a plurality of financial services applicable to said particular company (See Figure 18, item 324d, showing rates based on credit risks associated with the current financial data)

Fletcher does not expressly teach the limitation wherein:

said numeral data concerning costs corresponds to said data concerning said bankruptcy probability of said particular company.

However, as discussed above in the response to arguments, Official Notice has been taken that interest rate costs (AKA, numeral data concerning costs) corresponding to bankruptcy probabilities are old, well known, and admitted as prior art. Thus it would have been obvious to modify Fletcher to adjust financial service rates based on a bankruptcy probability calculation. The motivation for such a combination is within the knowledge generally known to one of ordinary skill in the art, and is simply to adjust financial service rates to most accurately reflect the credit risk of all potential borrowers.

### ***Conclusion***

**THIS ACTION IS FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

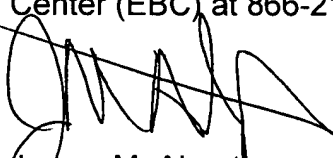
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is

Application/Control Number:  
09/816,211  
Art Unit: 3693

Page 13

(571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammel, can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



James M. Alpert  
October 18, 2006



ELLA COLBERT  
PRIMARY EXAMINER